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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,440	03/25/2004	Ashish Varma	PA1555 CIP2	6972
28390 7590 10/18/2007 MEDTRONIC VASCULAR, INC. IP LEGAL DEPARTMENT 3576 UNOCAL PLACE SANTA ROSA, CA 95403			EXAMINER VU, QUYNH-NHU HOANG	
			ART UNIT 3763	PAPER NUMBER
			NOTIFICATION DATE 10/18/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rs.vasciplegal@medtronic.com

## Office Action Summary

Application No.

10/808,440

Applicant(s)

VARMA ET AL.

Examiner

Quynh-Nhu H. Vu

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3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 8/4/04 & 8/29/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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***Election/Restrictions***

Applicant's election without traverse of Species 4C (claims 1-12) in the reply filed on 5/15/05 is acknowledged.

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **"joint member is entirely embedded within the wall of the shaft"** of claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bardsley et al. (US 6,004,310) in view of Crittenden et al. (US 4,988,356).

Bardsley discloses a catheter comprising: a shaft portion defining a guide wire lumen 110 and an inflation lumen 120; wherein the inflation lumen is actuate shaped; a support strip 135 embedded within a wall of the shaft between the guide wire lumen and an outer surface of the shaft; a guide member (guide wire). Bardsley does not disclose that the inflation lumen has a longitudinal cut extending radially to the shaft of the guide wire lumen.

Crittenden discloses a catheter with a longitudinal cut (Figs. 2, 5, cut is 28) extending radially from an outer surface of the shaft to the guide wire lumen.

Therefore, It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Bardsley with a longitudinal cut, as taught by Crittenden, in order to provide a means for inserting or removing an object, such as a guide wire.

Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bardsley et al. (US 6,004,310) in view of Crittenden et al. (US 4,988,356) and further in view of Lunn et al. (US 6,059,769).

Bardsley in view of Crittenden disclose the device substantially as claimed. However, Bardsley in view of Crittenden does not disclose that a reinforcement member and joint member as described in claims 3-7.

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Lunn discloses reinforcement 32, joint members 52 fixed within a groove in the shaft.

Therefore, It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Bardsley in view of Crittenden with a reinforcements and a joint members longitudinal cut, as taught by Lunn, in order to provide improve the flexibility of the distal end so that the medical catheter has improved tracking and movement in the body vessel. Furthermore, the reinforcement section will be preventing kinking during movement in the body vessel.

Regarding to claim 4, Lunn discloses that the joint member 52 made of Nylon (polymer group) or blends, while the joint member of claim invention made of polyolefin (polymer group). It would have been obvious to one having ordinary skill in the art at the time the invention was made to polyolefin, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Regarding claims 5, Bardsley, Crittenden and Lunn disclose the claimed invention except for the joint member is entirely embedded within the wall of the shaft. It would have been an obvious matter of design choice to made the joint member embedded entirely within the wall of the shaft, since applicant has not disclosed that entirely embedded of the joint member solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the device of Lunn.

Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bardsley et al. (US 6,004,310) in view of Crittenden et al. (US 4,988,356) and Lunn et al. (US 6,059,769).

Bardsley discloses a catheter comprising: a shaft portion defining a guide wire lumen 110 and an inflation lumen 120; wherein the inflation lumen is an actuate shaped; support strips 135 embedded within a wall of the shaft between the guide wire lumen and an outer surface of

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the shaft; wherein the support strips made of metallic or any material is known in the art (it can be stainless steel or titanium or tungsten) (see col. 6, lines 30-35) (claim 11), wherein the support strips are high modulus a polymer (col. 6, lines 30-52) (claim 12); a guide member (guide wire). Bardsley does not disclose that the inflation lumen has a longitudinal cut extending radially to the shaft of the guide wire lumen nor a reinforcement member disposed adjacent to the inflation lumen; a pair of joint members.

Crittenden discloses a catheter with a longitudinal cut (Figs. 2, 5, cut is 28) extending radially from an outer surface of the shaft to the guide wire lumen.

Therefore, It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Bardsley with a longitudinal cut, as taught by Crittenden, in order to provide a means for inserting or removing an object, such as a guide wire.

Lunn discloses reinforcement 32, joint members 52 fixed within a groove in the shaft.

Therefore, It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Bardsley in view of Crittenden with a reinforcements and a joint members longitudinal cut, as taught by Lunn, in order to provide improve the flexibility of the distal end so that the medical catheter has improved tracking and movement in the body vessel. Furthermore, the reinforcement section will be preventing kinking during movement in the body vessel.

Regarding claim 10, Bardsley, Crittenden and Lunn disclose that the joint member 52 made of Nylon (polymer group) or blends, while the joint member of claim invention made of polyolefin (polymer group). It would have been obvious to one having ordinary skill in the art at the time the invention was made to polyolefin, since it has been held to be within the general

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skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh-Nhu H. Vu whose telephone number is 571-272-3228. The examiner can normally be reached on 6:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Quynh-Nhu H. Vu  
Examiner  
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